

CHAPTER NO. 17

HOUSE BILL NO. 2358

By Representative Fowlkes

Substituted for: Senate Bill No. 2349

By Senator Ketron

AN ACT to repeal Chapter 69 of the Private Acts of 1965; Chapter 253 of the Private Acts of 1967; Chapter 174 of the Private Acts of 1984 and Chapter 143 of the Private Acts of 1992, and to create a budget system for Marshall County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. There is hereby created a County Budget Committee of Marshall County, Tennessee. The Committee shall consist of five (5) members of the Marshall County Board of Commissioners (formerly known as the Marshall County Quarterly Court) and the County Mayor (formerly known as the County Judge) who shall be an ex-officio non-voting member of the Committee. The five (5) members shall be elected as set forth in the Rules, Regulations & Procedures of the Marshall County Board of Commissioners; provided, however, the first committee was elected by the County Quarterly Court at its regular April 1965 term. A Chairman of the Committee shall be elected by the Committee. The County Director of Accounts and Budgets shall also be an ex-officio non-voting member of the Committee and shall in addition be the ex-officio non-voting secretary of the Budget Committee. The County Board of Commissioners may in its discretion allow members of the Budget Committee such compensation for their services as the Court may deem proper. Any provision for compensation, as well as provision for printing, publicity, supplies and other necessary expenses of the Budget Committee, shall be payable from the County General Fund and shall be included in the annual appropriation. The Budget Committee shall perform all of the duties respecting county budgets and appropriations previously performed, by the County Finance Committee and shall perform such other duties as herein provided.

SECTION 2. There is hereby created a fiscal year for Marshall County and for each office, department, institution, activity, and agency thereof, which fiscal year shall begin on the first day of July of each year and shall end on the thirtieth day of June next following. Such fiscal year shall constitute the budget year, and the year for accounting and reporting of each and every office, department, institution, activity and agency of the County government; but the aforesaid provision shall be in addition to, and not in lieu of, any accounting and reporting now required of any official by general law.

SECTION 3. The County Superintendent of Roads shall on or before the first day of June of each year, file with the Director of Accounts and Budgets an itemized statement of the funds estimated to be required for the county road program for the ensuing fiscal year and for the construction, operation, repair and maintenance of the county road system and for the general administration of the highway department, together with an estimate of the highway and road funds expected to be received during such fiscal year.

The County Board of Education shall, after preparing its annual budget as now provided by law, file such budget with the Director of Accounts and Budgets by the fifteenth day of June each year for inclusion in the complete budget document to be presented to the Budget Committee.

The Director of Accounts and Budgets, on or before the first day of June of each year, shall file with the Budget Committee of the County Commission an itemized statement of the amount which the Director estimates is necessary to be expended from the County General Fund, the debt service funds, and from all other funds (excluding highway fund, school funds, and funds derived from the sale of bonds), together with an estimate of the revenue to be received during the next fiscal year.

Each of the other operating departments, institutions, officers and agencies shall file with the Director of Accounts and Budgets on or before April 1 of each year a detailed estimate of its requirements for expenditures from the county's funds for the ensuing year.

It shall further be the duty of each official, office, department, institution, agent, or employee of the county government to furnish in writing such information, in such form and at such time as may be requested by the Budget Committee.

SECTION 4. The Budget Committee shall review and propose the annual budget. Such budget shall contain an itemized and classified plan of all proposed expenditures and estimated receipts for the ensuing fiscal year, and shall conform to the uniform classification of accounts established by the Director of Accounts and Budgets. These accounts shall conform to the uniform chart of accounts established by the Comptroller of the Treasury pursuant to general law.

Opposite each item of estimated revenue the budget shall show in opposite parallel columns the amount actually collected for the last completed fiscal year, a revised estimated amount for the current fiscal year, and the estimate for the ensuing fiscal year.

Likewise, opposite each item of proposed expenditures the budget document shall show the amount actually expended for such item during the last completed year, the probable amount which will be spent during the current fiscal year and the proposed appropriations or expenditures estimated for the ensuing fiscal year.

In preparing the budget, the Budget Committee may revise, as it deems necessary, the estimates or requests made by the various departments, offices, institutions and agencies of the county, but any county official or employee shall be entitled to a hearing before the Budget Committee with reference to any contemplated changes in such officials budget requests or estimates. If applicable, in accordance with Tennessee Code Annotated, Section 49-2-301, any change in the expenditure of money as provided for by the board of education budget shall be ratified by the board of education.

The Budget Committee shall certainly and fully provide in the budget for all requirements of debt service, interest and bond maturities and for any cash deficit in any fund at the beginning of the fiscal year, and shall propose a tentative tax rate for the ensuing fiscal year.

SECTION 5. On or before August 25th of each year the Budget Committee shall cause a synopsis of the proposed budget, and a statement of the tax rate required to finance the proposed budget, to be prepared and provided to all County Commissioners and published in the newspaper having general circulation in such county. Such publication shall also contain a notice of public hearing to be conducted by said Budget Committee at which any citizen or commissioner of the county shall have the right to appear and state such citizen's views on the budget. Provided, that such public hearing shall be held by the Budget Committee before but no later than fifteen (15) days prior to the fourth Monday of September of each year.

Following such public hearing, the budget committee shall make any final revisions of the proposed budget document and prepare corrected proposed copies for presentation to the Board of Commissioners not later than September 15 of the current fiscal year. In addition to these requirements, if the budget is not approved in the July session of the County Commission, the Director of Accounts and Budgets will present a resolution for a Continuing Budget to be passed in July for the County from which to operate until at such time as the new budget is approved.

SECTION 6. The Budget Committee shall present the budget to the Board of Commissioners on or before its regular September session each year or at a special September session if necessary. The proposed budget shall be accompanied by a budget message explaining the financial program and outlining the services, work and activities to be financed by the proposed budget and a brief discussion of the means proposed for financing the expenditure program set forth in the budget. With the proposed budget, the Budget Committee shall deliver to the Board of Commissioners a budget appropriation resolution and a tax levy resolution.

The Board of Commissioners may alter or revise the proposed budget except as to provision for debt service requirements and for other expenditures required by law. If applicable, in accordance with Tennessee Code Annotated, Section 49-2-301, any change in the expenditure of money as provided for by the board of education budget shall be ratified by the board of education. The Board of Commissioners shall finally adopt a budget not later than the fourth Monday in September. Pending such final adoption the Director of Accounts and Budgets is hereby authorized to make temporary allotments for expenditures for essential county services, in amounts not in excess of the comparable allotment for an average quarter of the preceding fiscal year.

The budget, the appropriation resolution, and the tax levy resolution, as adopted, shall be spread upon the minutes of the Board of Commissioners.

SECTION 7. The appropriations made in the appropriation resolution, or any amendment thereto, shall constitute the limit to expenditures for the various purposes and from the several funds of such county for the fiscal year covered by such resolution, and no expenditures shall be made or obligation created in excess of such limitation. Provided, further, that any resolution presented to the Board of Commissioners or other governing body in any fiscal year, after the original appropriation resolution has been adopted and the tax rate for the year fixed by said Board of Commissioners, which provides for an appropriation in addition to those made in the original budget appropriation resolution, shall specifically provide sufficient revenue or other funds to meet expenditures to be made in consequence of such additional appropriation.

Provided, further, that if at any time during the fiscal year it shall become apparent that the revenues of any of the County's funds together with its unencumbered cash balance at the beginning of such year, will not be sufficient to equal the amount of the original appropriations, it shall be the duty of the Director of Accounts and Budgets and the County Mayor, or in such person's absence the Commission Chairman, to impound the appropriations from such fund in such amount as shall appear necessary, subject to the written approval of the Budget Committee, it being the intent that no appropriation shall exceed the available revenue and no check shall be issued unless sufficient revenue is available to satisfy the obligation.

The appropriation made by the Board of Commissioners or other governing body, as provided above, shall constitute authorization for expenditure; and expenditures may be made and obligations created against any appropriation to an aggregate total of the amount appropriated for such item. However, the expenditures and encumbrances against the amounts appropriated shall be made only in consequence of issuance of a purchase order and subsequent issuance of an order issued by appropriate department heads and approval of the invoice by the Director of Accounts and Budgets; except that payrolls shall first be checked and approved for payment by the various department heads or otherwise as provided by law and county obligations imposed by law. No expenditures made or obligations created in any manner other than so specified or authorized in this Chapter shall be valid or binding against the county. Provided, however, that the Budget Committee may issue such regulations as it deems necessary for the prompt handling of bona fide emergencies, and the improvement, control and effectiveness of the fiscal procedures for Marshall County and said rules and regulations shall have the same force and effect as if they had been incorporated and enacted by this statute.

Expenditures from all other funds of the county, except school funds, shall be made by disbursement checks on the County Trustee signed by the County Mayor, or in such person's absence the Commission Chairman, and the Director of Accounts and Budgets, and no other official, department, institution or agency of the county shall issue negotiable checks or vouchers for such expenditures. But before any disbursement check shall be issued in discharge of any obligation, a detailed invoice or statement thereof shall be filed with the Director of Accounts and Budgets, and it shall be the Director's duty to carefully check all such invoices to determine if they are correct, if the goods or services have been received or rendered as stated, and if the obligation is just, authorized (by the department head's signature) and legally binding on the county.

Bills and accounts incurred in accordance with authorized appropriations shall be paid promptly in order that the county may obtain the benefits of cash discounts; and for this purpose, it shall not be necessary for any such bill or account to be filed and recorded by the County Clerk or to be approved before payment by the Board of Commissioners or by any committee or commission appointed by it.

SECTION 8. The Director of Accounts and Budgets shall make a report at the end of each month to the Budget Committee and the Board of Commissioners showing the condition of the Budget. The monthly report for November will be combined with December and reported in the January court agenda since there is no December court meeting. Such report shall show the appropriation for each fund, the total expenditures for the month and the year to date, the amount of outstanding encumbrances and the amount of the unencumbered balance. The report shall also show the estimated revenue for the year for each fund, the revenues for the month and the year and the unrealized portion of the total estimated revenue.

At such time the Chairman of the Budget Committee shall advise the Board of Commissioners of the condition of the budget, and of any adjustment or reduction of appropriation which should be made, and shall recommend any other action deemed advisable by the Budget Committee that the Board of Commissioners should make in order that the budget shall be kept in balance.

SECTION 9. Any official or employee of the county, or of any institution or agency thereof, who shall fail or refuse to perform the duties required of such person by this Chapter, or who shall fail or refuse otherwise to conform to the provisions of this Chapter shall be guilty of a failure of duty and shall be subject to the provisions of the general law for removal of public officials from their office or position.

SECTION 10. The provisions of this Chapter, except as provided in Section 3, shall not apply to county school funds for any purpose, the County Board of Education or the Director of Schools unless approved by the State Commissioner of Education.

SECTION 11. There is hereby created the office of Director of Accounts and Budgets who shall be a county employee, and who shall be appointed by the County Budget Committee with the approval of the Marshall County Board of Commissioners. The Director shall be qualified by training and experience in the field of accounting to perform such Director's duties in a proficient manner and in accordance with generally recognized principles of governmental accounting. Before assuming the duties the director shall execute a corporate surety bond, the amount of which shall not be less than fifty percent (50%) of the Trustee's bond amount. Said bond shall be approved by the Board of Commissioners and shall be recorded in the office of the Register of Deeds in the same manner as are the bonds of all county officials. The premium for such bond shall be paid from the County General Fund.

The compensation of the Director of Accounts and Budgets shall not be less than forty thousand dollars (\$40,000) per annum and shall be appropriated annually by the Marshall County Board of Commissioners. The amount of such compensation and the amount of compensation for any assistants, as approved by the County Budget Committee, and other necessary expenses of the Director's office, as approved by the County Budget Committee, shall be provided for by an annual appropriation from the County General Fund, and shall be set annually by the Board of Commissioners.

The Director of Accounts and Budgets shall have power, in accordance with such regulations as may be established from time to time by the County Budget Committee, to appoint and remove assistants, to prescribe their duties, and to fix their salaries within the limits of the annual appropriation.

In the event the Director of Accounts and Budgets becomes incapacitated for less than thirty (30) consecutive days for the performance of the duties of office, the Budget Committee shall appoint a Director of Accounts and Budgets Pro Tempore and is authorized to sign checks and purchase orders and execute such other documents as shall be necessary to maintain the operations of the County that pertain to the Office of the Director of Accounts and Budgets.

In the event the Director of Accounts and Budgets becomes incapacitated for more than thirty (30) consecutive days for the performance of the duties of office for an extended period of time, the Budget Committee shall select a qualified person to serve as Acting Director of Accounts and Budgets for the duration of the incapacitation of the Director of Accounts and Budgets, subject to the approval of the Board of Commissioners of Marshall County at the next regular meeting of such court. The Acting Director of Accounts and Budgets shall execute a corporate surety bond in an amount and under the conditions set forth in this Section and shall be authorized to exercise the powers and perform the duties of the Director of Accounts and Budgets set forth in this Act.

For purposes of this section, "incapacitated" means mentally and/or physically unable to perform the duties of office as deemed by a licensed professional in the medical and/or psychiatric field.

SECTION 12. There shall be set up and maintained in the office of the Director of Accounts and Budgets a system of fiscal procedure, control and centralized accounting, hereinafter set out and described, which shall be under the administrative control and direction of the Director of Accounts and Budgets. Such system shall be conducted in full accordance with the general law of this State respecting the duties and responsibilities of the Fiscal Agent of the County.

The system of fiscal procedure, control and accounting herein provided shall conform to generally accepted principles of governmental accounting and shall be in substantial agreement with the recommendations of the Governmental Accounting Standards Board.

The system shall include such records and procedures as may be required to accurately reflect the assets, liabilities, income, and expenditures of each fund of the County, together with such records, accounts and files as are necessary to record and control:

- (1) The transactions relating to county revenue, and the revenues for each of its several funds.
- (2) The transactions relating to the adopted budget and appropriations, including the expenditures and encumbrances against each item of appropriations.
- (3) The transactions relating to the bonded debt; and
- (4) Such other records as may be necessary to facilitate the operation of the adopted budget and the proper accounting for each item of county expenditure.

SECTION 13. It shall be the duty of the Director of Accounts and Budgets to post and otherwise keep the records of the central accounting system; to verify all bills, invoices, payrolls and claims against the county before payment; and to check the settlements and reports of the various officials and department heads of the county government.

The Director shall also, after careful pre-audit of invoices, bills and claims against the county or any of its funds, prepare disbursement warrants on all county funds. It shall be the duty of such Director to sign all county disbursement warrants as evidence of such Director's audits and approval of the expenditure made thereby, but no disbursement warrant drawn on the County Trustee shall become a county liability payable by the County Trustee until such warrant shall also have been signed by the County Mayor or Chairman, County Superintendent/Director of Schools, or other official or officials whose signatures are required on such warrants.

The Director shall install a uniform classification of accounts, including a classification of revenues and expenditures, to be used in accounting, budgeting, and financial reporting respecting all county funds, offices, agencies, and activities of the county governments, and shall prescribe the forms to be used by each official and employee of the county in connection therewith.

The Director shall set up and maintain a double entry system of accounting for recording the transactions of all of the county's funds, including both proprietary and budgetary accounts, in conformity with the requirements of the general law.

The Director shall set up the necessary accounts to properly record the annual budget and each appropriation made by the Marshall County Board of Commissioners. All encumbrances, expenditures or other charges against any item of the budget shall be promptly recorded in order that the unencumbered balance of each item of the budget shall be readily ascertainable at all times.

The Director shall pre-audit all payrolls of the county except for school employees before payment and shall maintain complete earnings records of each employee of the county.

SECTION 14. Excepting taxes such as the County Trustee is authorized to collect, the payment of all monies to the County Trustee by any collectors authorized by statute, or by anyone on account due the county, shall be made only by issuance of a receivable warrants issued by the Director of Accounts and Budgets instructing the Trustee to receive the amount named, for which the Trustee shall issue a receipt, duplicate of which shall be delivered to the Director of Accounts and Budgets to be used by the Director in posting the accounting records.

SECTION 15. Before any obligation against the county shall be paid or any disbursement warrant or voucher issued therefore, a detailed invoice or statement approved by the head of the office, department or agency for which the obligation was made shall be filed with the Director of Accounts and Budgets. The Director shall make a careful pre-audit of such invoice or statement, including a comparison with any encumbrance document previously posted or filed authorizing such obligation, and shall approve for payment only such items as appear to be correct, properly authorized, and not exceeding the otherwise unencumbered balance of the allotments or appropriations against which they are chargeable. Disbursement warrants shall be promptly prepared for all such approved items by the Director of Accounts and Budgets and mailed or delivered to the payees thereof. The Director is authorized and empowered to install and institute a purchase order system by assigning to each Department Head certain purchase order numbers for their usage. All purchases in excess of Five Hundred Dollars (\$500) made by any Department Head, shall bear the approval of the Director relative to price, need and availability of revenue, otherwise the obligation would not be binding on the County of Marshall. The dollar amount mentioned in the preceding sentence may be modified by the approval of the Marshall County Board of Commissioners.

A duplicate copy of all disbursement warrants, with all original invoices or other supporting documents attached thereto, shall be kept on file in the office of the Director of Accounts and Budgets in accordance with disposition schedules established pursuant to general law.

SECTION 16. Each official, office, department, institution, agency, board, committee, commission or employee of the county shall furnish such information and make such reports as may be required to properly maintain the central accounting system and fiscal procedures herein authorized and prescribed, and such information and reports shall be furnished at such times and in such form as may be prescribed by the Director of Accounts and Budgets.

The records of all county officers, departments, and agencies shall be made available by their respective officials or employees for examination at all reasonable hours by the Director of Accounts and Budgets.

SECTION 17. Any or all private acts prescribing fiscal procedures in direct conflict with the provisions of this act are hereby repealed, specifically Chapter 69 of the Private Acts of 1965, and its amendatory acts, as follows: Chapter 253 of the Private Acts of 1967; Chapter 174 of the Private Acts of 1984 and Chapter 143 of the Private Acts of 1992, and any other acts amendatory thereto.

SECTION 18. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 19. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Marshall County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 20. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 19.

PASSED: March 17, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 23rd day of March 2005


PHIL BREDESEN, GOVERNOR